

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION**

IN RE: ANGELA DENISE WHITE

Debtors (s)

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CHAPTER 13  
CASE NO. 11-60956

ANGELA DENISE WHITE

Plaintiff,

v.

Adversary Proceeding No. 12-06016

FIA CARD SERVICES, NA.  
CR EVERGREEN II, LLC,  
And  
EAST BAY FUNDING, LLC

Defendant,

REBECCA B. CONNELLY,

Trustee

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**MOTION FOR DEFAULT JUDGMENT**

Plaintiffs hereby apply to this Court to enter default judgment in favor of Plaintiffs and against the Defendant granting all relief requested in Plaintiffs' complaint on the ground that, without excuse, Defendant has failed to answer or otherwise defend as to the complaint of the

Plaintiffs, a copy of which is attached hereto as Exhibit A. The Defendant is not in the military service of the United States, as more particularly shown by the certification of David Cox, attorney for the Plaintiffs, attached hereto as Exhibit B.

Respectfully submitted,

COX LAW GROUP, PLLC

Date: 04/25/12

By: /s/ David Cox  
Counsel for Plaintiff

David Cox  
David Wright  
Janice Hansen  
Heidi Shafer  
COX LAW GROUP, PLLC  
900 Lakeside Drive  
Lynchburg, VA 24501  
434/845-2600  
434/845-0727 fax

**EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF VIRGINIA  
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IN RE: ANGELA DENISE WHITE

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Plaintiff

v.

FIA CARD SERVICES, N.A.,  
CR EVERGREEN II, LLC,  
and  
EAST BAY FUNDING, LLC

Defendants

and

REBECCA B. CONNELLY,

Chapter 13 Trustee

**COMPLAINT TO AVOID LIEN**

1. Debtor, ANGELA DENISE WHITE (referred to as "Debtor" and/or "Plaintiff" herein) commenced her underlying bankruptcy case on April 11, 2011, by filing the above-numbered voluntary petition for relief under Chapter 13 of title 11, United States Code.
2. FIA CARD SERVICES, N.A., filed an unsecured Proof of Claim #10 on 05/16/2011. On 8/31/11, FIA CARD SERVICES, N.A., as transferor, filed a notice of Transfer Of Claim Other Than For Security indicating CR EVERGREEN II, LLC, as the transferee. On 12/23/11, CR EVERGREEN II, LLC, as Transferor, filed a notice of Transfer of Claim other than for security indicating EAST BAY FUNDING, LLC, as the Transferee. Collectively, FIA CARD SERVICES, N.A., CR EVERGREEN II, LLC, and EAST BAY FUNDING, LLC, are referred to as the "DEFENDANTS" herein.

3. This Complaint is filed pursuant to 11 U.S.C. § 506(d) to avoid and cancel a judicial lien held by the DEFENDANTS on real property used as the Debtor's residence.
4. The DEFENDANTS have a claim against the Debtor in the amount of \$9,512.09.
5. The DEFENDANTS' claim is secured by a judicial lien in and on the real property used as Debtor's residence at 440 Bradley Road, Danville VA because FIA CARD SERVICES, N.A. recorded judgment entered against the Debtor on June 22, 2010 in the amount of \$10,812.09, plus costs and attorney's fees, in the land records of the City of Danville Circuit Court's Clerk's Office as Case Number 100003204.
6. Notwithstanding the foregoing, the DEFENDANTS do not have an allowed secured claim because the DEFENDANTS filed their claim as an unsecured claim.
7. Pursuant to 11 USC 506(d), "To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless- (1) such claim was disallowed only under section 502(b)(5) or 502 (e) of this title; or (2) such claim is not an allowed secured claim due only to the failure of an entity to file a proof of such claim under section 501 of this title."
8. The exceptions to the lien avoidance requirements of 11 USC 506(d) do not apply in this case because (a) the DEFENDANTS' claim was not disallowed under section 502(b)(5) or 502(e); and (b) the fact that the DEFENDANTS do not have an allowed secured claim does not result from the failure of the DEFENDANTS to file a claim under 11 USC 501.
9. The DEFENDANTS' lien is void under 11 USC 506(d).

WHEREFORE, Plaintiff prays for an Order against the DEFENDANTS for the cancellation and avoidance of the judicial liens on their residential real estate, and for such additional or alternative relief as may be just and proper.

Respectfully submitted,

COX LAW GROUP, PLLC

Date: 2/22/12

By: /s/ David Cox  
Counsel for Debtor

David Cox  
COX LAW GROUP, PLLC  
900 Lakeside Drive  
Lynchburg, VA 24501  
434/845-2600  
434/845-0727 fax

Service List

FIA CARD SERVICES, N.A  
A/K/A BANK OF AMERICA  
P.O. BOX 15102  
WILMINGTON DE 19886-5102

FIA CARD SERVICES, N.A  
A/K/A BANK OF AMERICA  
ATTN: BANKRUPTCY NC4-105-03-14  
P.O. BOX 26012  
GREENSBORO, NC27410

FIA CARD SERVICES, N.A  
P.O. BOX 15026  
WILMINGTON DE 19850-5028

FIA CARD SERVICES, N.A  
A/K/A BANK OF AMERICA  
GLASSER AND GLASSER, P.L.C  
P.O. BOX 3400  
NORFOLK VA 23514

CR EVERGREEN II, LLC  
MS 550  
P.O. BOX 91121  
SEATTLE WA 98111

CR EVERGREEN II, LLC  
C/O THE CORPORATION TRUST COMPANY, REGISTERED AGENT  
CORPORATION TRUST COMPANY  
1209 ORANGE STREET  
WILMINGTON DE 19801

EAST BAY FUNDING LLC  
C/O RESURGENT CAPITAL SERVICES  
ATTN: SUSAN GAINES  
P.O. BOX 288  
GREENVILLE SC29603

EAST BAY FUNDING LLC  
ATTEN: EDWARD J. BAGGIA  
650 PLYMOUTH STREET, STE 10  
EAST BRIDGWATER, MA 02333

**EXHIBIT B**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION**

IN RE: ANGELA DENISE WHITE

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ANGELA DENISE WHITE

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Defendant,

REBECCA B. CONNELLY,


Trustee

**AFFIDAVIT**

I, David Cox, Attorney for the Plaintiffs, hereby certify as follows:

1. On *February 23, 2012*, a summons was issued from the Clerk's office.
2. On *February 27, 2012*, the Defendant was properly and timely served with the summons and complaint.
3. The date by which the Defendant was to file an answer, *March 29, 2012*, has passed.
4. The Defendant did not file an answer or motion by that date.
5. The Defendant is not a member of the armed forces
6. The Defendant is not an infant or incompetent person.

WITNESS the following signature and seal:

  
\_\_\_\_\_  
/s/ David Cox (SEAL)

STATE OF VIRGINIA)  
to-wit;  
CITY OF LYNCHBURG)

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of April, 2012, by  
DAVID COX. My commission expires: February 28, 2015



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Magen D. Boone, Notary Public  
Notary No. 7083493